

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID ZANON,

Plaintiff,

v.

CASE NO. 08-CV-15337

COMMISSIONER OF
SOCIAL SECURITY,

DISTRICT JUDGE AVERN COHN
MAGISTRATE JUDGE CHARLES E. BINDER

Defendant.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1)(B), E.D. Mich. LR 72.1(b)(3), and by Notice of Reference, this case was referred to the undersigned magistrate judge for the purpose of reviewing the Commissioner's decision denying Plaintiff's claim for a period of disability and disability insurance benefits. Pursuant to the Court's Scheduling Order, Plaintiff filed a Motion for Summary Judgement and Motion to Remand on April 14, 2009. (Doc. 11.) On July 13, 2009, Defendant filed a Motion to Remand. (Doc. 16.) On July 21, 2009, Plaintiff filed a response to Defendant's Motion to Remand indicating that he "does not object to Defendant's Motion and Brief to Remand filed July 13, 2009, and requests that this Court grant his motion and order remanding this case pursuant to the fourth sentence of 42 U.S.C. § 405(g)." (Doc. 17 at 1.) Defendant's motion indicated that remand was needed to allow the Administrative Law Judge to consider "updated records from treating sources; further assess Plaintiff's credibility; further evaluate Plaintiff's mental impairments, further evaluate Plaintiff's residual functional capacity; and to obtain supplemental vocational expert testimony." (Doc. 16 at 1.) The parties therefore have, in substance, stipulated to remand the case for further proceedings pursuant to the fourth sentence of 42 U.S.C. § 405(g).

Accordingly, **IT IS RECOMMENDED** that, pursuant to the parties' stipulation, the Commissioner's decision be **REVERSED** and the case **REMANDED** to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

The parties to this action may object to and seek review of this Report and Recommendation within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed.2d 435 (1985); *Frontier Ins. Co. v. Blaty*, 454 F.3d 590, 596 (6th Cir. 2006); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *McClanahan*, 474 F.3d at 837; *Frontier Ins. Co.*, 454 F.3d at 596-97. Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be concise, but commensurate in detail with the objections, and shall address specifically, and in the same order raised, each issue contained within the objections.

s/ Charles E. Binder

CHARLES E. BINDER
United States Magistrate Judge

Dated: September 17, 2009

CERTIFICATION

I hereby certify that this Report and Recommendation was electronically filed this date and electronically served on counsel of record via the Court's ECF System.

Date: September 17, 2009

By s/Patricia T. Morris
Law Clerk to Magistrate Judge Binder